

annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 23, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen oxide, Ozone, Volatile organic compounds.

Dated: January 28, 1999.

David A. Ullrich,

Acting Regional Administrator, Region V.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(147) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(147) On June 21, 1997, and December 9, 1998, the State of Illinois submitted regulations adopted by the Illinois Pollution Control Board and the Illinois Environmental Protection Agency and legislation adopted by the General Assembly and signed by the Governor related to Illinois' vehicle inspection and maintenance (I/M) program. The purpose of these submittals was to change the existing program from a basic I/M program to a fully enhanced I/M program. These changes modify the program in both the Chicago and Saint Louis (Illinois Portion) Ozone nonattainment areas.

(i) Incorporation by reference.

(A) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter k: Emission Standards and Limitations for Mobile sources, Part 240 Mobile Sources, Except for Section 240. Table C. Adopted at 22 *Ill. Reg.* 13723, effective July 13, 1998.

(B) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter k: Emission Standards and Limitations for Mobile sources, Part 240 Mobile Sources, Section 240. Table C. Corrected at 22 *Ill. Reg.* 21120, effective July 13, 1998.

(C) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter II: Environmental Protection Agency, Part 276 Procedures to be Followed in the Performance of Inspections of Motor Vehicle Emissions. Amended at 22 *Ill. Reg.* 18867, effective September 28, 1998.

(ii) Other materials.

(A) Transmittal letters dated June 21, 1997, and December 9, 1998.

(B) Public Act 90-475, effective August 17, 1997. This Act amends the Illinois Environmental Protection Act by changing Sections 3.32, 3.78, 21, and 22.15 and adding Sections 3.78a and 22.38.

§ 52.726 [Revised]

3. Section 52.726 is revised by removing and reserving paragraph (m). [FR Doc. 99-3520 Filed 2-19-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[WY-001a; FRL-6234-3]

Clean Air Act Full Approval of Operating Permit Program; Approval of Expansion of State Program Under Section 112(I); State of Wyoming

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is promulgating full approval of the Operating Permit Program submitted by the State of Wyoming. Wyoming's operating permit program was submitted for the purpose of meeting the federal Clean Air Act directive that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the states' jurisdiction. EPA is also approving the expansion of Wyoming's program for receiving delegation of section 112 standards to include non-part 70 sources.

DATES: This direct final rule is effective on April 23, 1999 without further notice, unless EPA receives adverse comment by March 24, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule did not take effect.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202-2466. Copies of the State documents relevant to this action are available for public inspection at the Wyoming Department of Environmental Quality, 122 W. 25th Street, Cheyenne, WY 82002.

FOR FURTHER INFORMATION CONTACT: Patricia Reisbeck, EPA, Region 8, (303) 312-6435.

SUPPLEMENTARY INFORMATION:

I. Background

As required under title V of the Clean Air Act ("the Act") as amended (42 U.S.C. 7401 *et seq.*), EPA has promulgated rules that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of state operating permit programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V directs states to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Act directs states to develop and submit operating permit programs to the EPA by November 15, 1993, and requires that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act (42 U.S.C. 7661a) and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval. If EPA has not fully approved a program by two years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a federal program. The State of Wyoming was granted final interim approval of its program on January 19, 1995 (see 60 FR 3766) and the program became effective on February 21, 1995. Interim approval of the Wyoming program expires on June 1, 2000.

II. Final Action

A. Analysis of State Submission

The Governor of Wyoming submitted an administratively complete title V operating permit program for the State of Wyoming on November 19, 1993. This program includes state regulations at section 30 of the Wyoming Air Quality Standards and Regulations (WAQSR). EPA deemed the program administratively complete in a letter to the Governor dated January 4, 1994. The program submittal includes a legal opinion from the Attorney General of Wyoming stating that the laws of the State provide adequate legal authority to carry out all aspects of the program, and a description of how the State intends to implement the program. The submittal additionally contains evidence of proper adoption of the program regulations, application and permit forms, and a permit fee demonstration.

On May 10, 1994, EPA sent a letter to the State identifying areas in which the Wyoming program was deficient and the corrective actions that were to be completed either prior to interim program approval or prior to full program approval. In a letter dated June 7, 1994, the State addressed all issues necessary to receive interim approval of the Wyoming program.

On October 15, 1997, the State submitted revisions to its operating permit program regulations (section 30 of the WAQSR) that were effective August 19, 1997 and on October 26, 1998, the State submitted a supplemental Attorney General opinion clarifying the scope of the exception from Title V application requirements for insignificant activities. The revised program regulations adequately addressed those issues identified in the January 19, 1995 **Federal Register** document as requiring corrective action prior to full program approval. The State also submitted evidence of proper adoption of the revisions to its program regulations. In addition, statutory deficiencies identified by EPA, specifically in W.S. 35-11-901, were corrected by legislative amendments enacted during the 1995 Wyoming Legislative session that became effective on July 1, 1995. Finally, in a separate letter, dated July 10, 1997, the State officially requested approval under section 112(l) of the Act of its program mechanism for receiving delegation of all existing and future section 112(d) standards applicable to non-part 70 sources of hazardous air pollutants, by incorporating by reference the relevant EPA standards.

Areas in the Wyoming program that were identified by EPA as deficient and the State's corrective actions for full program approval consist of the following:

(1) Section 30(a)(ix) of the WAQSR states that research and development (R&D) operations are considered to be separate and discrete stationary sources for purposes of determining whether such operations are subject to the program. However, if an R&D facility is a "support facility" (i.e., co-located with another source under common ownership or control, with 50 percent of the output of the support unit being used by the main activity), the emissions from such an R&D facility must be included along with all other emissions at the source to determine applicability of section 30 of the WAQSR. Section 30(a)(ix) of the WAQSR was revised to assure that R&D support facilities are included in major source determinations.

(2) The Wyoming Environmental Quality Act (WEQA), W.S. 35-11-901, reduced the penalty for civil violations by surface coal mine operations from a maximum of ten thousand dollars per day to five thousand dollars per day. This language was replaced at W.S. 35-11-902 to clearly indicate that the five thousand dollar penalty relates only to activities subject to the Surface Mining Control and Reclamation Act.

(3) The WEQA originally based individual and corporate liability on knowing and willful violations of the WEQA. The WEQA was revised at W.S. 35-11-901(a)(i) to provide for strict liability for corporate officers, directors and agents in all civil actions.

(4) The WEQA did not provide for a per day, per violation penalty for false statements or tampering with monitoring devices. The State statute was revised at W.S. 35-11-901(j) and (k) to provide a per day, per violation penalty.

(5) Originally, section 30 of the WAQSR required insignificant activities to be listed in permit applications, but did not require applicants to identify the applicable requirements that might apply to such activities. The general provision of 40 CFR 70.5(c) requires that information concerning all applicable requirements must be included in the application. Section 30(c)(ii)(A)(III)(1) of the WAQSR was revised to include language similar to the general provision in 40 CFR 70.5(c), clarifying that the State will ensure that all applicable requirements are identified for any insignificant activities. By letter dated October 26, 1998, the Attorney General for Wyoming submitted a revised Attorney General's opinion to further clarify that, under the revised rule pertaining to insignificant activities, permit applications must include "sufficient information" for determining the applicability of or to impose applicable requirements on such activities.

(6) The original provision in section 30 regarding general permits was inconsistent with 40 CFR 70.6(d), because it appeared not to require notice and an opportunity for public participation consistent with 40 CFR 70.7(h). Section 30(i)(ii) was revised to clarify that public notice and comment requirements apply to the issuance of general permits.

(7) In the **Federal Register** notice proposing interim approval of the Wyoming program, EPA stated that, prior to full program approval, the State must clarify that section 30(h)(i)(J) provides the State with authority to implement emissions trading under a permit cap, which is required by 40 CFR

70.4(b)(12)(iii), or revise section 30 to provide such authority. In a letter dated November 16, 1994, the State clarified that it has authority to implement emissions trading under a permit cap. EPA concurs with the State's authority to implement this provision.

(8) The 1995 **Federal Register** notice of final interim approval asked the State to provide a definition of "Indian lands." The EPA has since determined that this question of ascertaining the State's definition of "Indian lands" is not required to be addressed for full approval of the State program, because EPA's **Federal Register** document granting interim approval made it clear that approval of Wyoming's program did not extend to lands within the exterior boundaries of Indian Reservations and thus does not extend to Indian country as defined by 18 U.S.C. 1151. A State definition of Indian lands would not change the geographic scope of the approved program, nor would it meet any requirement of part 70. This decision was conveyed to the State in a letter from EPA dated July 31, 1995.

B. Program for Straight Delegation of Section 112 Standards

Requirements for program approval, specified in 40 CFR 70.4(b), encompass requirements under section 112(l)(5) of the Act for delegation of 40 CFR part 63, subpart A, and section 112 standards as promulgated by EPA. Section 112(l)(5) requires that the State's hazardous air pollutant control program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule. EPA granted approval of the State's program, under section 112(l)(5) and 40 CFR 63.91, for receiving delegation of section 112 standards that are unchanged from the Federal standards as promulgated for part 70 sources, in the **Federal Register** document promulgating final interim approval of the Wyoming program (see 60 FR 3766). Based on the State's request, EPA is expanding this approval to include non-part 70 sources. EPA believes this expanded approval is warranted because State law does not differentiate between part 70 and non-part 70 sources for purposes of implementation and enforcement of section 112 standards that the State adopts. This approval would not, by itself, delegate authority to the State to enforce specific section 112 standards, but instead would establish a basis for the State to request and receive future delegation of authority to implement and enforce, for non-part 70 sources, section 112 standards that the State adopts without change.

C. Final Action

The EPA is granting full approval of the Wyoming operating permit program and, based on a State request, is expanding its approval of the State's program under section 112(l)(5) and 40 CFR 63.91 for receiving delegation of section 112 standards that are unchanged from the Federal standards, to include non-part 70 sources.

In Wyoming's part 70 program submission, the State indicated that it is not seeking approval from EPA to administer the State's part 70 program to sources on Indian lands in Wyoming. In this document, EPA is approving Wyoming's part 70 program for all areas within the State except the following: lands within the exterior boundaries of Indian Reservations (including the Wind River Indian Reservation) and any other areas which are "Indian Country" within the meaning of 18 U.S.C. 1151.

The EPA is publishing this rule without prior proposal because the State is currently implementing its part 70 program and the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to grant full approval of the operating permit program submitted by the State of Wyoming should adverse comments be filed. This rule will be effective April 23, 1999 without further notice unless the Agency receives adverse comments by March 24, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this rule must do so at this time.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance

costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior

consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because part 70 approvals under section 502 of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a

Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 23, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Dated: January 28, 1999.

William P. Yellowtail,
Regional Administrator,
Region VIII.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. sections 7401, *et seq.*

2. In appendix A to part 70 the entry for Wyoming is amended by revising paragraph (b) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Wyoming

(b) The Wyoming Department of Environmental Quality submitted an operating permits program on November 19, 1993; interim approval effective on February 21, 1995; revised August 19, 1997; full approval effective on April 23, 1999.

[FR Doc. 99-4141 Filed 2-19-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300451A; FRL-5600-4]

Formic Acid; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes exemptions from the requirement of a tolerance for residues of the pesticide formic acid in or on honey and beeswax when used to control tracheal mites and suppress varroa mites in bee colonies and applied in accordance with label directions.

DATES: This regulation becomes effective February 22, 1999. Objections and requests for hearings must be received by EPA on April 23, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket number [OPP-300451A], may be submitted to Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 119, Crystal